

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Michael L. Roberts,

Petitioner,

v.

Norm Robinson, Warden,

Respondent.

**Case No. 2:12-cv-371
Judge Watson
Magistrate Judge King**

OPINION AND ORDER

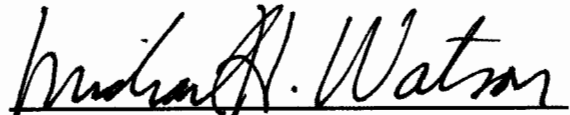
On December 27, 2012, the Magistrate Judge recommended Respondent's motion to dismiss, ECF No. 15, be granted, reasoning that Petitioner's claim three is unexhausted and time-barred and that Petitioner's claims one, two, and four raise only state law claims that are not cognizable in federal habeas corpus. Report and Recommendation, ECF No. 34. This matter is now before the Court on Petitioner's objections to that recommendation, ECF No. 38, which the Court will consider *de novo*. See 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b).

In his objections, Petitioner again argues that he fairly presented his claims to the state courts by filing state habeas corpus actions, and that the statute of limitations was thereby tolled. Petitioner also argues that the statute of limitations relating to his challenge to his guilty plea (claim three) did not begin to run until the trial court imposed a sentence in connection with Petitioner's violation of the terms of his community control. Alternatively, Petitioner contends that the statute

of limitations did not begin to run until he was returned to prison. Petitioner also argues that his initial judgment was a "legal nullity" that can be attacked at any time. He complains that it would be futile to require him to pursue a delayed direct appeal. Moreover, Petitioner argues that the Magistrate Judge failed to consider his *pro se* status. He contends that, because he acted with diligence and in good faith and is actually innocent, this Court should consider the merits of his claims. Finally, Petitioner objects to the Magistrate Judge's conclusion that, aside from claim three, his claims present issues of state law that fail to provide a basis for habeas corpus relief.

Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review. For the reasons already detailed in the Magistrate Judge's Report and Recommendation, Petitioner's objections, ECF No. 38, are **OVERRULED**. The Report and Recommendation is **ADOPTED** and **AFFIRMED**. Respondent's motion to dismiss, ECF No. 15, is **GRANTED**. This action is hereby **DISMISSED**.

The Clerk is **DIRECTED** to enter **FINAL JUDGMENT**.


MICHAEL H. WATSON
UNITED STATES DISTRICT JUDGE